

## AGENDA BILL APPROVAL FORM

<b>Agenda Subject:</b> Resolution No. 4594 and project initiation		<b>Date:</b> April 19, 2010
<b>Department:</b> Planning and Development	<b>Attachments:</b> Resolution No. 4594 and Exhibit A	<b>Budget Impact:</b> \$4,800,000 (identified in Capital Facilities Plan)

**Administrative Recommendation:**

City Council adopt Resolution No. 4594.

**Background Summary:**

The City presented the South Division Street Promenade project to the Economic Development District Board (of Puget South Regional Council) on December 12, 2007. The City's project was ranked number 1 to the Economic Development Administration (EDA) by this board. Next step, the City submitted a pre-application for investment assistance August 2008. The City was then informed by EDA the City met the demographic requirements for investment assistance November 2008 and our pre-application was approved and the City was invited to submit formal application on June 2, 2009. Our formal application was submitted August 27, 2009 and the review process with EDA began. Our application was forwarded to the Washington, DC EDA office for review in February 2010 and the City received our Notice of Investment Award on April 14, 2010.

The investment award is for \$3,000,000 with a 50% match required; EDA's contribution to the total project cost is 38%. The total project cost for the South Division Street Promenade is estimated at \$7,800,000 and the City's funding source for the balance of the estimated project cost, which is \$4,800,000, is through Local Revitalization Funding.

Resolution No. 4594 approves the appropriation and expenditure of U.S. Department of Commerce Economic Development Administration grant funds in the amount of \$3,000,000 for Project No. CP1005 authorizes the Mayor or his designee to accept the EDA investment award of \$3,000,000 and to execute the necessary paperwork.

L0503-2

O3.4.1.1, O4.9.1 CP1005

<b>Reviewed by Council &amp; Committees:</b> <input type="checkbox"/> Arts Commission <input type="checkbox"/> Airport <input type="checkbox"/> Hearing Examiner <input type="checkbox"/> Human Services <input type="checkbox"/> Park Board <input type="checkbox"/> Planning Comm.	<b>COUNCIL COMMITTEES:</b> <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Municipal Serv. <input checked="" type="checkbox"/> Planning & CD <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other _____	<b>Reviewed by Departments &amp; Divisions:</b> <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Building  <input type="checkbox"/> Cemetery  <input type="checkbox"/> Finance  <input type="checkbox"/> Fire  <input checked="" type="checkbox"/> Legal  <input checked="" type="checkbox"/> Public Works  <input type="checkbox"/> Information Services         </div> <div> <input type="checkbox"/> M&amp;O  <input type="checkbox"/> Mayor  <input type="checkbox"/> Parks  <input checked="" type="checkbox"/> Planning  <input type="checkbox"/> Police  <input type="checkbox"/> Human Resources         </div> </div>
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**Action:**

Committee Approval: ☐ Yes ☐ No  
 Council Approval: ☐ Yes ☐ No  
 Referred to \_\_\_\_\_ Until \_\_\_\_/\_\_\_\_/\_\_\_\_  
 Tabled \_\_\_\_\_ Until \_\_\_\_/\_\_\_\_/\_\_\_\_

Call for Public Hearing \_\_\_\_/\_\_\_\_/\_\_\_\_

<b>Councilmember:</b> Backus	<b>Staff:</b> Snyder
<b>Meeting Date:</b> May 3, 2010	<b>Item Number:</b> VIII.B.2

**RESOLUTION NO. 4594**

**A RESOLUTION OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE THE FINANCIAL ASSISTANCE AWARD BETWEEN THE CITY OF AUBURN (THE CITY) AND THE U.S. DEPARTMENT OF COMMERCE, ECONOMIC DEVELOPMENT ADMINISTRATION (THE EDA) APPROVING EDA FUNDS FOR THE DESIGN AND CONSTRUCTION OF IMPROVEMENTS FOR THE SOUTH DIVISION STREET PROMENADE PROJECT**

WHEREAS, in an effort to encourage additional downtown redevelopment and growth of downtown amenities, the City of Auburn desires to pursue the South Division Street Promenade that would connect the City Hall Plaza and the four block downtown revitalization catalyst area for urban living; and

WHEREAS, current redevelopment of adjacent commercial property in the vicinity requires improvements to South Division Street between 3<sup>rd</sup> Street SW and Main Street SW ("the Project"); and

WHEREAS, the EDA desires to contribute to the design and construction of the Project, relative to the economic benefits that will be realized by redevelopment of adjacent commercial properties; and

WHEREAS, the EDA has agreed to provide a \$3,000,000 grant in support of the Project ("EDA Grant"); and

WHEREAS, the EDA investment grant requires a 50% match ratio of local funds and the EDA investment grant will contribute 38% of the total project cost; and

WHEREAS, the City has been awarded a demonstration project through the Local Revitalization Funding state legislative process which will be leveraged to provide the matching funds for this grant; and

WHEREAS, the City Council passed Resolution No. 4501 on August 17, 2009 which authorized the Mayor to submit a formal application for investment assistance from the Economic Development Administration which was completed on August 27, 2009; and

WHEREAS, the Economic Development Administration approved the City's application for a \$3,000,000 investment grant on April 14, 2010, which funds shall be used for the South Division Street Promenade Project, with local matching funds of \$4,800,000 from the issuance of Limited General Obligation and Build America Bonds Fund; and

WHEREAS, it is in the best interest of the City to complete the Project to promote redevelopment of the adjacent commercial properties.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN HEREBY RESOLVES as follows:

**Section 1.** **Acceptance and Authorization.** The City Council hereby accepts the federal EDA grant and authorizes the Mayor to execute the Financial Assistance Award with the EDA to obligate the amount of \$3,000,000 for the project, in substantial conformity with the Financial Assistance Award attached hereto, marked as Exhibit "1" and incorporated herein by this reference. The Mayor is also authorized to approve and execute any future supplemental agreements thereto required for completion of the project including, but not limited to, design, construction, and right-of-way acquisition.

**Section 2. Implementation.** That the Mayor is further authorized to implement such administrative procedures as may be necessary to carry out the directives of this Resolution.

**Section 3. Effective Date.** That this Resolution shall take effect and be in full force upon passage and signatures hereon.

Dated and signed this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

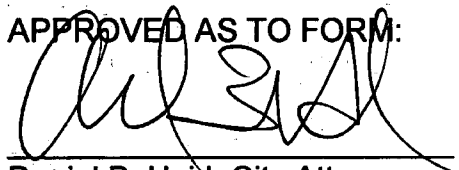
CITY OF AUBURN

\_\_\_\_\_  
PETER B. LEWIS  
MAYOR

ATTEST:

\_\_\_\_\_  
Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Daniel B. Heid, City Attorney

RECEIVED BY \_\_\_\_\_  
PERMIT CENTER

2010 APR 16 PM 4 58

April 14, 2010



**U. S. DEPARTMENT OF COMMERCE**  
Economic Development Administration  
915 Second Avenue, Room 1890  
Seattle, WA 98174  
Fax: 206.220.7669  
Voice: 206.220.7660

In reply refer to:  
Investment No.: 07-01-06485

The Honorable Peter Lewis  
Mayor, City of Auburn  
25 West Main Street  
Auburn, Washington 98001

Dear Mayor Lewis:

I am pleased to inform you that the Department of Commerce's Economic Development Administration (EDA) has approved your application for a \$3,000,000 EDA investment in Auburn, to construct infrastructure that will assist in the revitalization of the downtown corridor.

Enclosed are three signed originals of the Financial Assistance Award. Your agreement to the terms and conditions of the award should be indicated by the signature of your principal official on each of the originals of the Financial Assistance Award. Two of the executed originals should be returned to A. Leonard Smith, Regional Director, ATTN: JoAnn Smith, EDA Seattle Regional Office, 915 Second Avenue, Room 1890, Jackson Federal Building, Seattle, Washington 98174. If not signed and returned within 30 days of receipt, EDA may declare the Award null and void.

Please do not make any commitments in reliance on this award until you have carefully reviewed and accepted the terms and conditions. Any commitments entered into prior to obtaining the approval of EDA in accordance with its regulations and requirements will be at your own risk.

EDA's mission is to lead the federal economic development agenda by promoting innovation and competitiveness, preparing American regions for growth and success in the worldwide economy. EDA implements this mission by making strategic investments in the nation's most economically distressed communities that encourage private sector collaboration and creation of higher-skill, higher wage jobs. EDA investments are results driven, embracing the principles of technological innovation, entrepreneurship and regional development.

I share your expectations regarding the impact of this investment and look forward to working with you to meet the economic development needs of your community.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Leonard Smith".

A. Leonard Smith  
Regional Director

Enclosures

U.S. DEPARTMENT OF COMMERCE

☒ GRANT ☐ COOPERATIVE AGREEMENT

# FINANCIAL ASSISTANCE AWARD

ACCOUNTING CODE

RECIPIENT NAME **City of Auburn**

AWARD NUMBER  
**07-01-06485**

STREET ADDRESS **25 West Main Street**

FEDERAL SHARE OF COST \$ **3,000,000**

CITY, STATE, ZIP CODE **Auburn, Washington 98001**

RECIPIENT SHARE OF COST \$ **4,800,000**

AWARD PERIOD **From date of approval shown below through 60 months**

TOTAL ESTIMATED COST \$ **7,800,000**

DEPARTMENT OF COMMERCE OPERATING UNIT **Economic Development Administration**

AUTHORITY **42 U.S.C. Section 3141, et seq. Public Works and Economic Development Act, as amended by Public Law 108-373.**

CFDA NO. **11.300** PROJECT TITLE: **Public Works and Economic Development Facilities Program**

BUREAU	FCFY	FUND	PROGRAM CODE	BUDGET SUBACTIVITY	OBJECT 1	CLASS EXPEND	ENTITY
20	10	40	01	210	41	10	16

**This Award approved by the Grants Officer is issued in triplicate and constitutes an obligation of federal funding. By signing the three documents, the Recipient agrees to comply with the Award provisions checked below and attached. Upon acceptance by the Recipient, two signed Award documents shall be returned to the Grants Officer and the third document shall be retained by the Recipient. If not signed and returned without modification by the Recipient within 30 days of receipt, the Grants Officer may unilaterally terminate this Award.**

- ☒ EDA Standard Terms and Conditions Public Works and Implementation Construction Components, dated 12/2007
- ☒ Special Award Conditions and Attachments
- ☒ Line Item Budget
- ☒ 15 CFR Part 24, Uniform Admin Requirements for Grants/Cooperative Agreements to State & Local Governments
- ☒ OMB Circular A-87, Cost Principles for State and Local Governments and Indian Tribal Governments
- ☒ OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations
- ☐ 15 CFR, Part 14, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, Other Nonprofit, and Commercial Organizations
- ☐ OMB Circular A-122, Cost Principles for Nonprofit Organizations
- ☐ OMB Circular A-21, Cost Principles for Educational Institutions
- ☐ EDA Standard Terms and Conditions Capacity Building Programs
- ☐ Department of Commerce Financial Assistance Standard Terms and Conditions, dated May 2007

SIGNATURE OF DEPARTMENT OF COMMERCE GRANTS OFFICER

NAME **A. Leonard Smith**  
TITLE **Regional Director**

DATE  
**April 14, 2010**

SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL

TYPED NAME AND TITLE

DATE

**EXHIBIT "A"**

**U.S. DEPARTMENT OF COMMERCE  
Economic Development Administration**

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**Public Works and Development Facilities**

**RECIPIENT:** City of Auburn, Washington

**Award No.** 07-01-06485

**SPECIAL AWARD CONDITIONS**

1. **PROJECT DEVELOPMENT TIME SCHEDULE:** The Recipient agrees to the following Project development time schedule:

Time allowed after receipt of Financial Assistance Award for:

Return of Executed Financial Assistance Award - 30 days

Time allowed after acceptance by Recipient of Financial Assistance Award for:

Start of Construction - 24 months

Construction Period - 24 months

Project Closeout - All Project closeout documents, including final financial information and any required program reports, shall be submitted to the Government not more than 90 days after the date the Recipient accepts the completed Project from the contractor(s).

The Recipient shall pursue diligently the development of the Project so as to ensure completion of the Project and submission of closeout documents within this time schedule. Moreover, the Recipient shall notify the Government in writing of any event which could delay substantially the achievement of the Project within the prescribed time limits. The Recipient further acknowledges that failure to meet the development time schedule may result in the Government's taking action to terminate the Award in accordance with the regulations set forth at 13 CFR 305.99(b) and 15 CFR 24.43 (53 Fed. Reg. 8048-9, 8102, March 11, 1988).

2. **GOALS FOR WOMEN AND MINORITIES IN CONSTRUCTION:** Department of Labor regulations set forth in 41 CFR 60-4 establish goals and timetables for participation of minorities and women in the construction industry. These regulations apply to all Federally assisted construction contracts in excess of \$10,000. The Recipient shall comply with these regulations and shall obtain compliance with 41 CFR 60-4 from contractors and subcontractors employed in the completion of the Project by including such notices, clauses and provisions in the Solicitations for Offers or Bids as required by 41 CFR 60-4. The goal for the participation of women in each trade area shall be as follows:

From April 1, 1981, until further notice:

6.9 percent

All changes to this goal, as published in the Federal Register in accordance with the Office of Federal Contract Compliance Programs regulations at 41 CFR 60-4.6, or any successor regulations, shall hereafter be incorporated by reference into these Special Award Conditions.

Goals for minority participation shall be as prescribed by Appendix B-80, Federal Register, Volume 45, No. 194, October 3, 1980, or subsequent publications. The Recipient shall include the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" (or cause them to be included, if appropriate) in all federally assisted contracts and subcontracts. The goals and timetables for minority and female participation may not be less than those published pursuant to 41 CFR 60-4.6.

3. **TITLE:** Prior to EDA authorization to start construction, the Recipient shall provide evidence satisfactory to the Government that the Recipient has acquired good and merchantable title, free of all mortgages, foreclosable liens, or encumbrances, to all land, rights-of-way, and easements necessary for the completion of the Project.
4. **ARCHITECT/ENGINEER AGREEMENT:** Prior to the disbursement of funds by EDA, the Recipient must submit to the Government for approval an Architect/Engineer agreement that meets the requirements of EDA publication "Summary of EDA Construction Standards" V. Requirements During Construction, E. Competitive Procurement Requirements, as well as the competitive procurement standards of 15 CFR Part 24 or 15 CFR Part 14, as applicable. The fee for basic Architect/Engineer services will be a lump sum or an agreed maximum and no part of the fees for other services will be based upon a cost-plus-a-percentage-of-cost or a cost using a multiplier.
5. **FEDERAL SHARE OF PROJECT COSTS:** The EDA participation in total eligible project costs will be limited to the EDA grant amount or the EDA share of total allowable project costs based on the area's grant rate eligibility at the time of award, whichever is less.
6. **REPORT ON UNLIQUIDATED OBLIGATIONS:** If there is an EDA grant award of more than \$100,000 which has not been fully disbursed (or disbursed and closed out) as of September 30 each year the recipient must submit OMB Standard Form 269A, Financial Status Report, to EDA annually on the status of unreimbursed obligations. The report will provide information on the amount of allowable project expenses that have been incurred by the Recipient but not claimed for reimbursement as of September 30. The report must be submitted to EDA no later than October 30 of each year. Noncompliance with this requirement will result in the suspension of EDA grant disbursements. EDA will furnish instructions for completing and filing the report to all recipients at least 60 days before the report is due.



7. **GRANT SUSPENSION FOR FAILURE TO START CONSTRUCTION:** If significant construction (as determined by EDA) is not commenced within two years of approval of the project or by the date estimated for start of construction in the grant award (or the expiration of any extension granted in writing by EDA), whichever is later, the EDA grant will be automatically suspended and may be terminated if EDA determines, after consultation with the grant recipient, that construction to completion cannot reasonably be expected to proceed promptly and expeditiously.
8. **PRESERVATION OF OPEN COMPETITION AND GOVERNMENT NEUTRALITY TOWARDS GOVERNMENT CONTRACTORS' LABOR RELATIONS ON FEDERAL AND FEDERALLY FUNDED CONSTRUCTION PROJECTS:** Pursuant to E.O. 13202, unless the project is exempted under section 5(c) of the order, bid specifications, project agreements, or other controlling documents for construction contracts awarded by recipients of grants or cooperative agreements, or those of any construction manager acting on their behalf, shall not: a) include any requirement or prohibition on bidders, offerors, contractors, or subcontractors about entering into or adhering to agreements with one or more labor organizations on the same or related construction project(s); or b) otherwise discriminate against bidders, offerors, contractors, or subcontractors for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or more labor organizations, on the same or other related construction projects(s).
9. **REAFFIRMATION OF APPLICATION:** Recipient(s) acknowledges that Recipient's application for this Award may have been submitted to the Government and signed by Recipient(s) electronically. Regardless of the means by which Recipient(s) submitted its application to the Government, Recipient(s) hereby reaffirms and states that a.) all data in said application and documents submitted with the application are true and correct as of the date of this Award and were true and correct as of the date of said application, b.) said application was as of the date of this Award and as of the date of said application duly authorized by the governing body of the Recipient(s) and c.) Recipients(s) will comply with the Assurances and Certifications submitted with or attached to said application.
10. **RECIPIENT'S DUTY TO REFRAIN from Employing Certain Government Employees:**  
For the two-year period beginning on the date the Government executes this award, the Recipient(s) agrees that it will not employ, offer any office or employment to, or retain for professional services any person who, on the date the Government executes this award or within the one-year period ending on that date:
  - (i) Served as an officer, attorney, agent, or employee of the Government; and
  - (ii) Occupied a position or engaged in activities that the Assistant Secretary determines involved discretion with respect to the award of Investment Assistance under PWEDA.The two-year period and associated restrictions referenced above also shall apply beginning on the date the Government executes any cost amendment to this award that provides additional funds to the Recipient(s).

11. STATE HISTORIC PRESERVATION OFFICER (SHPO): Within three years of the date that the grant is awarded, the Recipient shall provide evidence satisfactory to the EDA that all of the stipulations in the Memorandum of Agreement (MOA) between the EDA, City of Auburn in Washington, and the Washington Department of Archaeology and Historic Preservation regarding the South Division Street Promenade Project, City of Auburn, Washington have been met. The different deadlines for meeting the different stipulations are specified in the MOA.

PUBLIC WORKS PROJECT COST CLASSIFICATIONS

Recipient: City of Auburn, Washington

EDA Award No. 07-01-06485

State: Washington

County: King

<u>Cost Classification</u>	<u>Proposed</u>	<u>Approved</u>
Administrative and legal expenses	\$ 365,000	\$365,000
Land, structures and rights-of-way appraisals, etc.	0	0
Relocation expenses and payments	0	0
Architectural and engineering fees	750,000	750,000
Other architectural and engineering fees	75,000	75,000
Project inspection fees	175,000	175,000
Demolition and removal	0	0
Construction	5,560,000	5,560,000
Equipment	0	0
Contingencies	875,000	875,000
<b>TOTAL PROJECT COSTS</b>	<b>\$7,800,000</b>	<b>\$7,800,000</b>